FILED
OCT 11 1940
LEWIS, CLERK

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SANTA BARBARA

EMILY HALL SPRECKELS,

Plaintiff,

vs.

ADOLPH B. SPRECKELS,

Defendant.

No. 32073

NOTICE OF MOTION TO STRIKE

TO THE PLAINTIFF ABOVE NAMED and to MESSRS. SCHAUER, RYON & McMAHON, ATTORNEYS FOR PLAINTIFF:

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that on Monday, the 21st day of October, 1940, at the hour of ten o'clock A. M. of said day, or as soon thereafter as counsel can be heard, in the Courtroom of the above entitled Court, at the Court House, in the City of Santa Barbara, County of Santa Barbara, State of California, the above named defendant, Adolph B. Spreckels, will move said Court to strike from the complaint of plaintiff on file herein, the following portions thereof:

1. The entire second and separate cause of action alleged in said complaint, commencing on page 5, line 29, to and including line 23, page 7, and each and every word, line, phrase, sentence and paragraph contained therein.

2. The whole of paragraph I of the second and separate cause of action alleged in said complaint, and each and every word, line, phrase and sentence contained therein.

3. The whole of paragraph II of the second and separate cause of action alleged in said complaint, and each and every word

KEANEY, PRICE, POSTEL & PARRA
SANTA BARBARA, CALIF.

line, phrase, sentence and paragraph contained therein.

4. The whole of paragraph III of the second and separate cause of action alleged in said complaint, and each and every word, line, phrase and sentence contained therein.

5. The whole of paragraph IV of the second and separate cause of action alleged in said complaint, and each and every word, line, phrase, sentence and paragraph contained therein.

YOU WILL PLEASE TAKE NOTICE that at said hour and said place said defendant will move for an order striking from said complaint the foregoing portions thereof and each and every line, sentence, phrase, paragraph and word thereof.

Said motion will be based upon the records, files and proceedings in said action, and upon the ground that those portions of said complaint to which this motion is addressed are irrelevant, redundant, surplusage, conclusions and immaterial and not proper matters and things to be contained in a complaint.

Dated: This 11th day of October, 1940.

Heaney Price Postel & Parma

Attorneys for said defendant.

HEANEY, PRICE, POSTEL & PARMA
SANTA BARBARA, CALIF.

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SANTA BARBARA

EMILY HALL SPRECKELS,

Plaintiff,

vs.

ADOLPH B. SPRECKELS,

Defendant.

No. 32073

POINTS AND AUTHORITIES

Irrelevant, redundant and sham matters, and mere conclusions of law not based on ultimate fact, may be stricken from a pleading on motion.

C. C. P. 453

21 Cal. Jur. 247-248

Basler v. Sacramento Co., 158 Cal. 514

Bremner v. Leavitt, 109 Cal. 130

Gay v. Winter, 34 Cal. 153

Larco v. Casaneuava, 30 Cal. 560

12 Cal. Jur. 440

Stubbs v. Abercrombie, 42 Cal. App. 170

16 Cal. Jur 744

Respectfully submitted,

Heeney Price Postel & Parma

Attorneys for defendant.

HEANEY, PRICE, POSTEL & PARMA
SANTA BARBARA, CALIF.

Service of the within NOTICE OF MOTION TO STRIKE and POINTS AND AUTHORITIES, by receipt of a copy thereof, is hereby admitted this 11th day of October, 1940.

Attorneys for Plaintiff.

HEANEY, PRICE, POSTEL & PARMA
SANTA BARBARA, CALIF.

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA,
IN AND FOR THE COUNTY OF SANTA BARBARA.

EMILY HALL SPRECKLES,
Plaintiff,
vs.
ADOLPH B. SPRECKLES,
Defendant.

No. 32073

RULING ON DEMURRER AND MOTION TO STRIKE

The motion of the defendant, Adolph B. Spreckles, to strike out portions of plaintiff's complaint is denied.

The demurrer of the defendant, Adolph B. Spreckles, to the complaint of plaintiff is overruled.

Dated: November 15, 1940.

Judge of the Superior Court.

D. C. CARSON
OFFICIAL REPORTER SUPERIOR COURT
SANTA BARBARA, CALIFORNIA

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SANTA BARBARA

FILED
NOV 19 1940
[illegible] Clerk

EMILY HALL SPRECKELS,

Plaintiff,

vs.

ADOLPH B. SPRECKELS,

Defendant.

No. 32073

NOTICE OF OVERRULING OF DEMURRER AND DENIAL OF MOTION TO STRIKE.

To: Adolph B. Spreckles, defendant, and his attorneys, Heaney, Price, Postel and Parma:

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that on the 15th day of November, 1940, the above entitled court did, by its order duly made and entered, overrule defendant's demurrer to plaintiff's complaint on file in said above entitled matter and did at said time deny said defendant's motion to strike out portions of plaintiff's complaint in said matter.

Dated: November 18th, 1940.

Schauer, Ryon and McMahon

By Devin Ryon

Robt W. McMahon

Attorneys for the above named plaintiff

Service of the above notice of overruling of demurrer and denial of motion to strike admitted this 18th day of November, 1840.

Heaney Price Postel & Parma

Attorneys for the above named defendant

County of Santa Barbara)

Anna Royka, being first duly sworn, says: That affiant is a citizen of the United States and a resident of the County of Santa Barbara; that affiant is over the age of eighteen years and is not a party to the within and above entitled action; that affiant's business address is 26 East Carrillo Street, Santa Barbara, California

That on the 18th day of November, A. D., 19 40 affiant served the within Notice of Overruling of Demurrer and Denial of Motion to Strike

on the Attorney for Defendant in said action, by placing a true copy thereof in an envelope addressed to said attorney at the business address of said attorney, as follows: Walter Slack, Attorney at Law, Balfour Building, San Francisco, California

and by then sealing said envelope and depositing the same, with postage thereon fully prepaid, in the United States Post Office at Santa Barbara, California. That there is delivery service by United States mail at the place so addressed and there is a regular communication by mail between the place of mailing and the place so addressed.

SUBSCRIBED AND SWORN to before me this 18th day of November, 1940

Anna Royka

Ida E. Schaepf
Notary Public in and for said County and State

AFFIDAVIT OF SERVICE — ANY PAPER BY MAIL

[1] *Here quote from envelope name and address of addressee.*

Minutes of Superior Court

Book 62 Page 241

EMILY HALL SPRECKELS,

Plaintiff,

vs.

ADOLPH B. SPRECKELS,

Defendant

No. 32073

Filed November 15th, 1940

J. E. LEWIS, *Clerk*

By [signature] *Deputy Clerk.*

The Demurrer to the complaint,

having heretofore been argued and submitted to the Court for consideration and decision, and the Court having duly considered the same, and being fully advised in the premises, now renders its decision thereon from the Bench and orders that the said Demurrer be and the same is *hereby* overruled and the defendant is given 10 days within which to answer thereto.

A true copy, attest:

J. E. LEWIS, *Clerk.*

By [signature] *Deputy Clerk.*

FILED
NOV 19 1940
[illegible] CLERK

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA BARBARA

EMILY HALL SPRECKELS,

Plaintiff,

vs.

ADOLPH B. SPRECKELS,

Defendant.

No. 32075

AFFIDAVIT IN SUPPORT OF NOTICE TO TAKE DEPOSITION.

STATE OF CALIFORNIA,
COUNTY OF SANTA BARBARA, } ss.

EMILY HALL SPRECKELS, being first duly sworn, deposes and says:

That she is the plaintiff in the above-entitled action; that the above-named defendant, Adolph B. Spreckels, has been served with summons in the above-entitled action and has appeared in said action by filing therein a Demurrer to plaintiff's Complaint on file therein; that one of the essential and material issues in the said action is as to the income and net worth of the said defendant; that defendant is a man of great wealth and receives from his holdings a very large yearly income; that among other assets possessed by said defendant are shares of stock of J. D. & A. B. Spreckels Company, a corporation, carrying on its business from and with its home offices at 2 Pine Street, San Francisco, California; that said defendant owns outright Eighteen Hundred Forty-one (1841) shares of the stock of said corporation, J. D. & A. B. Spreckels Company, and that said defendant is the owner of in excess of Two

Hundred (200) shares of the stock of the said J. D. & A. B. Spreckels Company, a corporation, held in trust for him and in his behalf.

That affiant is informed and believes and on such information and belief alleges that the said J. D. & A. B. Spreckels Company, a corporation, is engaged in many and numerous large commercial activities and is a holding company of great wealth, power and influence, possessing and holding stock in, and controlling stock in, numerous corporations; that affiant is informed and believes and on such information and belief alleges that certain of these companies are engaged in the following businesses: Warehousing, carrying passengers and property for hire, electrical transportation, operating hotels and apartment houses, commercial office buildings, real estate developments, sugar plantations, and sugar refineries; that affiant is informed and believes and on such information and belief alleges that among the corporations whose stock is in part either owned by or wholly controlled by the said J. D. & A. B. Spreckels Company, a corporation, are: The Gulf Warehouse Company, Coronado Ferry Company, The San Diego Electric Railway Company, The Mission Beach Company, The Spreckels Sugar Company, The Western Sugar Refinery, together with either partial or controlling interests in the corporations that operate the Coronado Hotel and the San Diego Hotel. That affiant is informed and believes and on such information and belief alleges that the said J. D. & A. B. Spreckels Company, a corporation, either owns and operates or holds the controlling stock in corporations which do operate commercial office and theatre buildings in certain of the principal cities in the Pacific Coast area and owns and operates large and extensive sugar plantings in the Hawaiian Islands. That affiant is informed and believes and on such information and belief alleges that each share of stock in the said J. D. & A. B. Spreckels Company, a corporation, has a value in excess of $9,000.00, and that

SCHAUER, RYON & McMAHON
ATTORNEYS AT LAW
26 EAST CARRILLO ST.
SANTA BARBARA, CALIF.

the holdings of the said defendant, Adolph B. Spreckels, in and to the stock of the said J. D. & A. B. Spreckels Company, a corporation, have a reasonable value in excess of $18,000,000.00.

That affiant is informed and believes and on such information and belief alleges that one Frank J. Belcher, Jr., is the President of the said J. D. & A. B. Spreckels Company, a corporation, and maintains his place of residence and abode at 1000 Mason Street, San Francisco, California; that the said Frank J. Belcher, Jr., President of the said corporation, as aforesaid, does not reside within the County of Santa Barbara, California, the place where the above-entitled action is now pending, and that said witness is not physically present within the County of Santa Barbara, California, the place where the testimony of said witness is to be used; that the said Frank J. Belcher, Jr., is a material and necessary witness in behalf of the plaintiff in said action, and that the testimony of said witness is necessary to establish a portion of the income and net worth of the said above-named defendant, Adolph B. Spreckels, in connection with his, the said Adolph B. Spreckels', holdings in and to stock of the said J. D. & A. B. Spreckels Company, a corporation, a fact and issue in and material to the above-entitled action.

That MARY A. LAPACHET is a Notary Public in and for the City and County of San Francisco, State of California, and maintains her offices at Room 1733, 111 Sutter Street, in the City of San Francisco, and is a fit and proper person before whom the testimony of said witness may be taken by deposition.

WHEREFORE, request is hereby made by said plaintiff, the affiant herein, that the Clerk of the Superior Court of the State of California in and for the City and County of San Francisco issue the Subpoena of the said court directing the said Frank J. Belcher, Jr., to be and appear before the said MARY A. LAPACHET, a Notary

SCHAUER, RYON & McMAHON
ATTORNEYS AT LAW
26 EAST CARRILLO ST.
SANTA BARBARA, CALIF.

Public, as aforesaid, in and for the City and County of San Francisco, at Room 1735, 111 Sutter Street, in the City of San Francisco, County of San Francisco, State of California, on the 5th day of December, 1940, at the hour of 9:30 A.M. of said day, and there testify in behalf of the plaintiff in the above-entitled action.

Emily Hall Sprackels

Subscribed and sworn to before me this 18th day of November, 1940.

Mabel Reynolds
Notary Public in and for the County of Santa Barbara, State of California.

Johnson, Flint & McMahon

Robt W. Blackstone
Attorneys for Plaintiff.

Receipt of a copy of the attached Notice of Taking of Depositions Within State of California and the within Affidavit is hereby admitted this 18th day of November, 1940.

HEANEY, PRICE, POSTEL & PARMA
Attorneys for Adolph B. Spreckels, defendant in the above-entitled case.

SCHAUER, RYON & McMAHON
ATTORNEYS AT LAW
26 EAST CARRILLO ST.
SANTA BARBARA, CALIF.

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA BARBARA

EMILY HALL SPRECKELS,

Plaintiff,

vs.

ADOLPH B. SPRECKELS,

Defendant.

No. 32073

NOTICE OF TAKING OF DEPOSITION WITHIN STATE OF CALIFORNIA.

TO THE ABOVE-NAMED DEFENDANT, AND TO HEANEY, PRICE, POSTEL & PARMA and WALTER BLACK, ATTORNEYS FOR SAID DEFENDANT:

You will please take notice that the deposition of Frank J. Belcher, Jr., a necessary and material witness on behalf of the above-named plaintiff in the above-entitled action, to be used in the trial of said action, will be taken by and in behalf of said plaintiff, before MARY A. LAPACHET, a Notary Public in and for the City and County of San Francisco, State of California, at her offices at Room 1738, 111 Sutter Street, in the City of San Francisco, California, between the hours of 9:30 A.M. and 5:00 P.M. of the 5th day of December, 1940; the taking of said deposition to commence at the hour of 9:30 A.M. of said 5th day of December, 1940, and if not completed upon said day, to be continued from day to day successively thereafter and over Sundays, if necessary, until completed, at the same place and between the same hours.

Dated this 18th day of November, 1940.

Schauer, Ryon & McMahon
by Harold P. [illegible]
Robt W. Harrison
Attorneys for Plaintiff.

SCHAUER, RYON & McMAHON
ATTORNEYS AT LAW
28 EAST CARRILLO ST.
SANTA BARBARA, CALIF.

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SANTA BARBARA

EMILY HALL SPRECKELS,

Plaintiff,

vs.

ADOLPH B. SPRECKELS,

Defendant.

No. 58075

AFFIDAVIT OF SERVICE

STATE OF CALIFORNIA)
COUNTY OF SANTA BARBARA) ss.

ANNA ROYKA being first duly sworn, deposes and says:

That she is a citizen of the United States of America, and a resident of the County of Santa Barbara and over the age of twenty-one years; that she is neither a party to nor interested in the outcome of the above entitled action; that on the 18th day of November, 1940, in Santa Barbara, California, she personally served the Affidavit in Support of Notice to Take Deposition and Notice of Taking of Deposition Within State of California upon Heaney, Price, Postel and Parma, attorneys of record for the defendant above named by presenting the originals of said documents and each of them to Clarence Rogers, a member of said firm of Heaney, Price, Postel and Parma, and delivering to and leaving with him personally a true copy of each of said documents, to-wit: Affidavit in Support of Notice to Take Deposition and Notice of Taking of Deposition Within State of California.

Anna Royka

Subscribed and sworn to before me this 18th day of November, 1940. (SEAL)

Ada E. Schauer

Notary Public in and for the County of Santa Barbara, State of California.

SCHAUER, ETON & McMAHON
ATTORNEYS AT LAW
26 EAST CARRILLO ST.
SANTA BARBARA, CALIF.

STATE OF CALIFORNIA,
County of Santa Barbara } ss.

ANNA ROYKA, being first duly sworn, says: That affiant is a citizen of the United States and a resident of the County of Santa Barbara; that affiant is over the age of eighteen years and is not a party to the within and above entitled action; that affiant's residence/business address is 26 East Carrillo Street, Santa Barbara, California

That on the 18th day of November, A. D., 19 40 affiant served the within Affidavit In Support Of Notice To Take Deposition and Notice Of Taking Of Deposition Within State of California

on the Attorney for Defendant in said action, by placing a true copy thereof in an envelope addressed to said Attorney at the residence/business address of said Attorney, as follows: Walter Black, Attorney at Law, Balfour Building, San Francisco, California

and by then sealing said envelope and depositing the same, with postage thereon fully prepaid, in the United States Post Office at Santa Barbara, California. That there is delivery service by United States mail at the place so addressed and there is a regular communication by mail between the place of mailing and the place so addressed.

SUBSCRIBED AND SWORN to before me this 18th day of November, 19 40

Anna Royka

Mabel Raymess
Notary Public in and for said County and State.

AFFIDAVIT OF SERVICE — ANY PAPER BY MAIL

† *Here quote from envelope name and address of addressee.*

FILED
NOV 19 1940
J. E. ...
CLERK

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA BARBARA

EMILY HALL SPRECKELS,

Plaintiff,

vs.

ADOLPH B. SPRECKELS,

Defendant.

No. 32078

AFFIDAVIT IN SUPPORT OF NOTICE TO TAKE DEPOSITION.

STATE OF CALIFORNIA,
COUNTY OF SANTA BARBARA, } ss.

EMILY HALL SPRECKELS, being first duly sworn, deposes and says:

That she is the plaintiff in the above-entitled action; that the above-named defendant, Adolph B. Spreckels, has been served with summons in the above-entitled action and has appeared in said action by filing therein a Demurrer to plaintiff's Complaint on file therein; that one of the essential and material issues in the said action is as to the income and net worth of the said defendant; that defendant is a man of great wealth and receives from his holdings a very large yearly income; that among other assets possessed by said defendant are shares of stock of J. D. & A. B. Spreckels Company, a corporation, carrying on its business from and with its home offices at 2 Pine Street, San Francisco, California; that said defendant owns outright Eighteen Hundred Forty-one (1841) shares of the stock of said corporation, J. D. & A. B. Spreckels Company, and that said defendant is the owner of in excess of Two

SCHAUER, PETON & McMAHON
ATTORNEYS AT LAW
28 EAST CARRILLO ST.
SANTA BARBARA, CALIF.

Hundred (800) shares of the stock of the said J. D. & A. B. Spreckels Company, a corporation, held in trust for him and in his behalf.

That affiant is informed and believes and on such information and belief alleges that the said J. D. & A. B. Spreckels Company, a corporation, is engaged in many and numerous large commercial activities and is a holding company of great wealth, power and influence, possessing and holding stock in, and controlling stock in, numerous corporations; that affiant is informed and believes and on such information and belief alleges that certain of these companies are engaged in the following businesses: Warehousing, carrying passengers and property for hire, electrical transportation, operating hotels and apartment houses, commercial office buildings, real estate developments, sugar plantations, and sugar refineries; that affiant is informed and believes and on such information and belief alleges that among the corporations whose stock is in part either owned by or wholly controlled by the said J. D. & A. B. Spreckels Company, a corporation, are: The Gulf Warehouse Company, Coronado Ferry Company, the San Diego Electric Railway Company, The Mission Beach Company, The Spreckels Sugar Company, The Western Sugar Refinery, together with either partial or controlling interests in the corporations that operate the Coronado Hotel and the San Diego Hotel. That affiant is informed and believes and on such information and belief alleges that the said J. D. & A. B. Spreckels Company, a corporation, either owns and operates or holds the controlling stock in corporations which do operate commercial office and theatre buildings in certain of the principal cities in the Pacific Coast area, and owns and operates large and extensive sugar plantings in the Hawaiian Islands. That affiant is informed and believes and on such information and belief alleges that each share of stock in the said J. D. & A. B. Spreckels Company, a corporation, has a value in excess of $9,000.00, and that

SCHAUER, RYON & McMAHON
ATTORNEYS AT LAW
30 EAST CARRILLO ST.
SANTA BARBARA, CALIF.

the holdings of the said defendant, Adolph B. Spreckels, in and to the stock of the said J. D. & A. B. Spreckels Company, a corporation, have a reasonable value in excess of $18,000,000.00.

That affiant is informed and believes and on such information and belief alleges that one W. G. Blackie is the Secretary of the said J. D. & A. B. Spreckels Company, a corporation, and maintains his place of residence and abode within the City and County of San Francisco, California; that the said W. G. Blackie, Secretary of the said corporation, as aforesaid, does not reside within the County of Santa Barbara, California, the place where the above-entitled action is now pending, and that said witness is not physically present within the County of Santa Barbara, California, the place where the testimony of said witness is to be used; that the said W. G. Blackie is a material and necessary witness in behalf of the plaintiff in said action, and that the testimony of said witness is necessary to establish a portion of the income and net worth of the said above-named defendant, Adolph B. Spreckels, in connection with his, the said Adolph B. Spreckels', holdings in and to stock of the said J. D. & A. B. Spreckels Company, a corporation, a fact and issue in and material to the above-entitled action.

That MARY A. LAPACHET is a Notary Public in and for the City and County of San Francisco, State of California, and maintains her offices at Room 1738, 111 Sutter Street, in the City of San Francisco, and is a fit and proper person before whom the testimony of said witness may be taken by deposition.

WHEREFORE, request is hereby made by said plaintiff, the affiant herein, that the Clerk of the Superior Court of the State of California in and for the City and County of San Francisco issue the Subpoena of the said court directing the said W. G. Blackie to be and appear before the said MARY A. LAPACHET, a Notary

SCHAUER, REYON & McMAHON
ATTORNEYS AT LAW
26 EAST GARRILLO ST.
SANTA BARBARA, CALIF.

Public, as aforesaid, in and for the City and County of San Francisco, at Room 1733, 111 Sutter Street, in the City of San Francisco, County of San Francisco, State of California, on the 6th day of December, 1940, at the hour of 9:30 A.M. of said day, and there testify in behalf of the plaintiff in the above-entitled action.

Emily Hall Spreckels

Subscribed and sworn to before me this 18th day of November 1940.

Mabel Reynolds
Notary Public in and for the County of Santa Barbara, State of California.

Schauer Ryon & McMahon

Robt W. McIntyre
Attorneys for Plaintiff.

Receipt of a copy of the attached Notice of Taking of Depositions Within State of California and the within Affidavit is hereby admitted this 18th day of November, 1940.

HEANEY, PRICE, POSTEL & PARMA
Attorneys for Adolph B. Spreckels, defendant in the above-entitled case.

SCHAUER, RYON & McMAHON
ATTORNEYS AT LAW
26 EAST CARRILLO ST.
SANTA BARBARA, CALIF.

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA BARBARA

EMILY HALL SPRECKELS,

Plaintiff,

vs.

ADOLPH B. SPRECKELS,

Defendant.

No. 32073

NOTICE OF TAKING OF DEPOSITION WITHIN STATE OF CALIFORNIA.

TO THE ABOVE-NAMED DEFENDANT, AND TO HEANEY, PRICE, POSTEL & PARMA and WALKER BLACK, ATTORNEYS FOR SAID DEFENDANT:

You will please take notice that the deposition of W. G. Minchin, a necessary and material witness on behalf of the above-named plaintiff in the above-entitled action, to be used in the trial of said action, will be taken by and in behalf of said plaintiff, before MARY A. LAPACHET, a Notary Public in and for the City and County of San Francisco, State of California, at her offices at Room 1738, 111 Sutter Street, in the City of San Francisco, California, between the hours of 9:30 A.M. and 5:00 P.M. of the 6th day of December, 1940; the taking of said deposition to commence at the hour of 9:30 A.M. of said 6th day of December, 1940, and if not completed upon said day, to be continued from day to day successively thereafter and over Sundays, if necessary, until completed, at the same place and between the same hours.

Dated this 18th day of November, 1940.

Schauer, Ryon & McMahon
By Harriet Ryon Mealey
Robt. M. McMahon
Attorneys for Plaintiff.

SCHAUER, RYON & McMAHON
ATTORNEYS AT LAW
26 EAST CARRILLO ST.
SANTA BARBARA, CALIF.